

REMARKS

Status

This Amendment is responsive to the Office Action dated 28 December 2004, in which Claims 1-6 were rejected. No claims have been canceled; Claim 1 has been amended; and new Claims 7-11 have been added. Accordingly, Claims 1-11 are pending in the application, and are presented for reconsideration and allowance.

Claim Rejection - 35 USC § 102

Claims 1 and 5 stand rejected under 35 USC 102(b) as being anticipated by US Patent No. 5,574,768 (*McLean*). This rejection is respectfully traversed.

Applicants believe that the preamble is given patentable weight, as *Kropa v. Robie and Mahlman* does cite cases in which the preamble either expressly or by necessary implication was considered to be a limitation upon the subject matter defined by the claim (see page 485).

However, to promote prosecution, Claim 1 has been amended to clearly indicate that the invention is directed to an intraoral x-ray film packet. More particularly, the body of Claim 1 now recites “an intraoral outer envelope”. As such, the present invention is clearly not anticipated by *McLean* as *McLean* is directed to a film cassette intended for external imaging of a patient.

In addition, while *McLean* may use the term “tin” in its description, *McLean*’s tin is used for attenuation. That is, *McLean*’s element 15 is a filter used to affect the x-ray beam. More specifically, *McLean*’s filter (element 15) is used to improve the x-ray beam intensity incident on a back screen-film combination and reduce the transfer to an adjacent screen-film combination of visible light energy. (Refer to *McLean*’s Col. 1, lines 63-67.)

In contrast, Applicants’ non-lead sheet has no effect on the x-ray beam. Rather, Applicants’ sheet is a shielding member used to absorb backscattered radiation (see Page 4, lines 22-24). As such, Applicants’ non-lead sheet has no effect on the x-ray beam. This shielding feature of the non-lead

sheet is clearly claimed in amended Claim 1 as “a non-lead shielding sheet disposed within the intraoral outer envelope”.

Further, *McLean* indicates that filter 15 “may be produced from almost any metallic material” (Col 2, lines 3-4). *McLean*’s filter can be any metallic material since it is effecting the x-ray beam. In contrast, Applicants’ non-lead sheet cannot be “any metallic material” since Applicants’ sheet is used for shielding – and not all metallic materials can provide shielding for an intraoral application (i.e., sufficiently malleable/formable so as to be incorporated into a dental packet, yet provide for comfortable operation). As claimed, Applicants’ sheet is comprised substantially of tin.

For the reasons set forth above, the present invention is not anticipated by *McLean*. Accordingly, Claim 1 is believed to be patentable.

Claim 5 is dependent on Claim 1, and therefore includes all the features thereof. For the reasons set forth above with regard to Claim 1, Claim 5 is also believed to be patentable.

Claim Rejection - 35 USC § 103

Claims 1 and 6 stand rejected under 35 USC 103(a) as being unpatentable over US Patent No. 4,912,740 (*Liese Jr*) in view of US Patent No. 5,550,383 (*Haskell*). This rejection is respectfully traversed.

The present invention as claimed in Claim 1 is not obvious from the cited references. *Haskell* is directed to a healthy tissue shielding device. More specifically, *Haskell*’s device is intended for shielding/protecting healthy tissue during radiation therapy such that the healthy tissue is not exposed to radiation. As such, *Haskell*’s use of tin is for shielding/protecting healthy tissue during radiation therapy.

Applicants use of tin is for a sheet used to absorb backscattered radiation. As such, *Haskell*’s use of tin to shield healthy tissue from radiation is not relevant to Applicants’ application.

Further, *Haskell* does not teach a sheet comprise substantially of tin. Rather, *Haskell* teaches a mold made from metal particles dispersed in a thermoplastic matrix material. Refer to *Haskell*’s Col 5, lines 63-67 which states that the invention “involves directly manually molding a metal-filled

thermoplastic compound of specific manufactured radioresistance while in a plastic flow state, which become a solid after cooling to human body temperatures". As such, *Haskell* does not teach a sheet, nor does *Haskell* teach a sheet comprised substantially of tin.

As such, even if the cited references were combined as suggested by the Examiner, the present invention as claimed in Claim 1 would not result.

Claim 6 is dependent on Claim 1, and therefore includes all the features thereof. For the reasons set forth above with regard to Claim 1, Claim 6 is also believed to be patentable.

Claim Rejection - 35 USC § 103

Claims 2-4 stand rejected under 35 USC 103(a) as being unpatentable over *McLean*. This rejection is respectfully traversed.

Claims 2-4 are dependent on Claim 1, and therefore include all the features thereof. For the reasons set forth above with regard to Claim 1, Claims 2-4 are also believed to be patentable.

New Claims

New Claims 7-11 are believed to be patentable for the reasons set forth above with regard to Claims 1-6.


Summary

Should the Examiner consider that additional amendments are necessary to place the application in condition for allowance, the favor is requested of a telephone call to the undersigned counsel for the purpose of discussing such amendments.

For the reasons set forth above, it is believed that the application is in condition for allowance. Accordingly, reconsideration and favorable action are respectfully solicited.

The Commissioner is hereby authorized to charge any fees in connection with this communication to Eastman Kodak Company Deposit Account No. 05-0225.

Respectfully submitted,


Attorney for Applicants
Registration No. 39,324

Susan L. Parulski/law
Rochester, NY 14650
Telephone: (585) 477-4027
Facsimile: (585) 477-4646